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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,802	09/24/2001	Jan Loncke		8899

7590

10/29/2002

Glenn Law
Foley & Lardner
Suite 500
3000 K Street NW
Washington, DC 20007-5109

EXAMINER

SAVAGE, MATTHEW O

ART UNIT

PAPER NUMBER

1723

DATE MAILED: 10/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/869,802

Applicant(s)

LONCKE ET AL.

Examiner

Matthew O Savage

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

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The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification fails to adequately disclose how to make the recited web of metal fibers. In particular, it is unclear as to how the fibers produced as disclosed in U.S. Patent 3,379,000 are processed into the recited web. While the second paragraph of page 5 of the specification states "A first non-woven web is then produced by means of an arandofeeder apparatus which is disclosed e.g. in GB 1,190,844.", such a disclosure is not considered enabling since enabling subject matter from a foreign patent document cannot be incorporated by reference into a U.S. patent application. It is suggested that the specification of instant application be amended to include a written discription of all essential subject matter from the '844 patent required to form the recited web.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to lines 4 and 6 of claim 1, "the filter inlet side" and "the filter outlet side" lack proper antecedent basis.

Concerning line 4 of claim 4, it is unclear as to what aspect of the second wire net the mesh of the first wire net is being compared to. Regarding line 5, "the diameter" lacks antecedent basis.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 561,001 to Ishibe.

With respect to claim 1, Ishibe discloses a first layer 2 and a second layer 3 each including a web of metal fibers that have been sintered, the layers being in contact, the first layer 2 having a porosity of below 55% (see line 32 of page 5) and the second layer 3 having a porosity that is at least 20% greater than the porosity of the first layer (see line 58 of page 6). The limitation of the first layer being closest to the inlet and the second layer being closest to the outlet relates to intended use and carries no patentable weight.

Concerning claim 5, Ishibe discloses a first layer 2 having at least one even surface since it is formed by a molding process.

Claim 9 relates to a method of making an apparatus and carries not patentable weight as an apparatus claim.

Claims 2-4, and 6-9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, first and second paragraphs, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 10 and 11 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, first paragraph, set forth in this Office action.

EP 561,001 to Ishibe and U.S. Patent 4,983,467 are considered the closest prior art. EP 561,001 fails to teach or suggest the first layer as having a diameter of less than 3 microns as recited in claim 3, the weight of 300-600 grams per meter squared as recited in claim 4, the wire net fixed to the first or second layer recited in claims 6-8, or the steps sintering a web of metal fibers to form a first layer followed by compacting the first layer to form a porosity of below 55% as recited in instant claim 10. While De Bruyne et al disclose a first layer including a web of sintered metal fibers that has been compacted to a porosity below 55% by a cold isostatic pressing operation, De Bruyne et al fail to teach or suggest the second layer formed of a web of sintered metal fibers having a porosity which is at least 20% greater than the porosity of the first layer as recited in instant claim 1 and 10.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew O Savage whose telephone number is 703-308-3854. The examiner can normally be reached on Monday-Friday, 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda W. Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

M. Savage
Matthew O Savage
Primary Examiner
Art Unit 1723

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October 28, 2002